

Exhuming the defeated: Civil War mass graves in 21st century Spain

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Para Chun: toda esa fuerza, toda esa luz

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ABSTRACT

Based on a local case-study of the exhumation of two mass graves in a small village, conducted eight years apart, I address the transformation of Civil War (1936-1939) disinterments in Spain over the last decade. The sudden visibility of skeletons of civilians executed by Franco's paramilitary in the public sphere has triggered heated debates both about how to handle them in a consolidated democratic state and what to make of controversial judicial and institutional initiatives. The particularity of Spain's "human rights outsourcing model" regarding Civil War crimes is placed in comparative perspective within the framework of transnational human rights discourses and practices. [human rights, transitional justice, postconflict, memory, exhumations, mass graves, Spanish Civil War]

Afterlives

On July 30th 2011, a media firestorm interrupted the usual summer lull of Spain's holiday season. A burial site containing ten corpses in the municipal cemetery of Poyales del Hoyo, a small village of six hundred neighbors in the province of Ávila, barely two hundred kilometers west of Madrid, had been emptied on the orders of the new conservative mayor. He issued these orders in response to a petition by a relative to move her grandmother's body to a family vault. In the meantime, the rest of the tomb's contents were transferred to a nearby tomb labeled with a sobering inscription: *fosa común*—mass grave. One week later there was a public demonstration against the mayor's decision in which protestors called for the bodies to be returned to the original burial site; events culminated in a public brawl in the main *plaza* of the village right after a Sunday mass, and the Civil Guard had to intervene to quell the escalating skirmishes. The demonstrators, mostly representatives of regional "associations for the recovery of historical memory" from outside the village, carried a banner reading "We are the grandchildren of the workers you could never kill!"

Quickly spreading through newspapers, radio stations and TV programs, this very local bit of news, which had at first appeared somewhat inconsequential, ignited Spain's early 21st century *necropolitics* (Mbembe 2003; Biehl 2001) regarding the fate of Civil War dead bodies (1936-1939). For the

unearthed and relocated bones were not the discarded and forgotten skeletons that cemetery officials routinely disinter to make space for new ones. Rather, they were highly significant representatives of some of Spain's most vulnerable and politically controversial contemporary corpses: those of civilians executed in Franco's expanding army rearguard during the war, and also in the early postwar years of his dictatorship. These slain bodies had remained largely abandoned in mass graves throughout the country for decades, subject to successive regimes of silence, indifference and oblivion (Ferrándiz 2011a).

That situation changed drastically a decade ago. Since 2000, one of the best-known secrets of Spanish democracy was finally exposed to the public eye: shocking images of skeletons marked by perimortem tortures and summary executions, unearthed in archaeological diggings, started to appear and proliferate in the mainstream media and later on the Internet and among social networks. Behind this *bare bones* disclosure of the traumatic past was the generation of grandchildren of those defeated in the Civil War; together they led a heterogeneous and sometimes fragmented associative movement which has placed at the centre of its moral and political activism the recovery and dignifying of the memory of the defeated in the Civil War, including, prominently, the exhumation of mass graves throughout the country. That Spain is now disturbingly looking backwards to the fate of the diverse categories of Civil War victims and perpetrators seventy years after the fact poses questions about the social management of the conflict in the long term. At the same time, it undermines the widespread idea that the prestigious transition to democracy of the late seventies and early eighties in Spain was a political, institutional and judicial success to be imitated and recreated in other transitional contexts (Edles 1998). On the contrary, I argue that the Spanish case shows that societies eventually need to confront head-on the most disquieting elements of the past and that political strategies that privilege sweeping such history "under the rug," while potentially effective for discrete periods of time, may be altogether more destabilizing in the long term. This may well be inevitable as emerging political cultures experience what Hinton calls "transitional frictions"—the tensions and discrepancies of handling social and political travails in the postconflict context (2011; see also Aguilar 2002; Hayner 2002; Wilson 2003; Theidon 2006).

The Spanish case is, in turn, of a piece with other institutional initiatives and social movements across the world—at the local and transnational levels—which are alighting on mass grave exhumations tied to the terror machineries of dictatorial or totalitarian regimes (or other types of human rights abuses) to create a progressively more prestigious, if controversial, truth and reconciliation tool. The opening of mass graves related to uncomfortable past and present-day violence sets in motion political, judicial, scientific, symbolic, and commemorative processes which are being increasingly researched by anthropologists worldwide (Binford 1996; Sant Cassia 2005; Crossland 2002 and 2009; Kwon 2008; Wagner 2008; Robben 2000 and 2005; Sanford 2003) and also, more specifically, in Spain (Renshaw 2011; Fernandez de Mata 2010; Ferrándiz 2006, 2008, 2009, 2010a, 2010b, 2011a). For one thing, the analysis of mass graves and the slain corpses they contain allows for a creative convergence of anthropologies of violence, death, mourning, victimhood, human rights, social suffering, memory, ritual, mass media, science and technology and art, to name a few. In turn, exhumations and other activities

concerned with dead bodies and their representations, are extremely rich, if complex, ethnographic locations in which to trace the resurfacing of social trauma and its flow into the social fabric, condensing many interwoven processes ranging from deep emotions or local incidents to international politics or transnational conventions.

Yet an anthropology of exhumations does not stop with the study of the actual diggings, or with methodological debates on how to research them in an ethnographically significant way. To analyze the impact of mass grave exhumations and the diverse ramifications of disinterred corpses in contemporary societies, researchers also need to explore the tension between “the petrification of the bones and their strange coolness” and “their stubborn will to mean, to signify something” (Mbembe 2003). This demands carefully tracing the different itineraries they follow once unearthed from the grave. In this regard Katherine Verdery’s formulation of the “political life of dead bodies” (1999) is invaluable. Verdery, who is interested in unpacking the different modalities of “postsocialist necrophilia” in Eastern Europe and the former Soviet Union (such as cadavers, body parts, mummies, statues and so forth), has suggested that the study of such “corpses on the move” required that “attention [be paid] to political symbolism; to death ritual and beliefs, such as ideas about what constitutes a ‘proper burial;’ to the connections between the particular corpses being manipulated and the wider national and international contexts of manipulation; and to reassessing or rewriting the past and creating or retrieving ‘memory’” (1999:3). In the Spanish case, the exhumed skeletons are, as a collective body, increasingly claiming visibility and prominence within the broader category of victims of the Civil War and Francoist repression, which also include widows and orphans, sexually abused, tortured, prisoners, forced labourers, refugees, exiled, purged and stolen children, amongst others (Juliá, coord. 1999; Vinyes 2002; Rodrigo 2008; Casanova 2010; Preston 2012).

Based on a local case-study, in this paper I will focus on the transformation of Civil War disinterment in Spain in the last decade, exploring the promises and shortcomings of the Spanish *exhumation model*. But my broader research project covers a more comprehensive *social autopsy* (Klinenberg 2001) of the main manifestations of the exhumed corpses in contemporary Spain, as well as their increasing *transactions* with transnational human rights discourses and practices (Wilson 2006; Cowan 2006; Ferrándiz 2010a), cosmopolitan memory cultures (Levy and Sznajder 2002), and globalized repertoires of barbarism and mass violence (Ignatieff 1998). These transactions are bidirectional, covering both the *downloading* of bits and pieces of these transnational processes as well as the reverse process, the steady *uploading* of the Spanish corpses and their spin-offs in the global arena of human suffering and human rights violations. To account for the sudden flight of these executed bodies from forgotten graves into the public sphere, and track how they acquire fresh meanings and become entangled in power relations and regimes of truth, elsewhere I elaborate on Verdery’s premise by including an analytical follow-up to the more specifically political aspects of their reappearance (controversies amongst political parties, parliamentary debates, institutional public memory initiatives), also the legal (itineraries in the judicial system), scientific (transit through forensic laboratories, identification procedures and technical reports), media (exposure of skeletons and associated rituals in conventional communication channels as well as the

Internet), associative (remembrance and dignifying rituals within emerging political cultures), emotional (individual and social sentimental displays and styles) or artistic (re-elaborations in literature, cinema, theatre plays or painting) *afterlives* of the exhumed bodies (Ferrándiz 2011a).

In order to map out these multisite processes, during the last ten years I have doing ethnographic research on the most representative sites where the unburied bodies have been acquiring presence and visibility, starting in the mass graves as the crucial *ground zero* for the recovery of the historical memory of those defeated in the Civil War. Although I have based my research on attending and documenting a large number of exhumations in different regions of the country, cooperating in interdisciplinary teams led by archaeologists and forensic doctors, I have also followed the unfolding *afterlives* of the corpses in forensic laboratories, in the media—both as a witness and as a participant in the news-making—in ‘dignifying’ political rituals, in ceremonies of returning of corpses to the communities, in reburials, in DNA sample-taking rituals, in demonstrations and teach-ins, in book presentations, in academic conferences and debates, in more informal talks in neighbourhood or retirement homes, in the making of documentaries, in social networks, in artistic exhibitions and in a 2011 governmental ‘expert commission’ regarding the fate of Franco’s body and the controversial mausoleum hosting it.¹

Exhuming the Spanish Civil War

Despite the increasing accumulation of conflicts and catastrophes in the contemporary world, the Spanish Civil War and the debates around it still draw significant international interest. This “iconic status of the Spanish Civil War” (Richards 2010:124) responds to a variety of reasons: the extent to which it presaged the Second World War (including differential involvement by Stalin, Hitler, Mussolini and Salazar), the experimentation of new weapons and military tactics against civilians (such as the Gernika air bombing by the Condor Legion, immortalized by Picasso), the fact that it was one of the first wars with sophisticated international media coverage, including newspapers, photography and film (Preston 2008), or the presence of antifascist international brigades fighting for the Republic against the military rebellion —being some of the reporters and brigadiers as renowned as Hemingway (1940), Orwell (1952), Malraux (1937), Gellhorn, Capa, Dos Passos, Saint-Exupery, or Weil. The war left behind hundreds of thousands of people death, as many as 500 thousand according to some estimations —300 thousand in the frontlines and the rest in the rearguards (Preston 2012)—, a profound social divide between winners and losers, great economic disruption and major infrastructural damage. It gave way to a thirty six year long dictatorship under Francisco Franco’s rule, implacable with the defeated.

One of the most contentious aspects of debates in Spain regarding the Civil War has been the extent and characteristics of rearguard violence on civilians on both sides of the conflict. Over the years, controversies over the nature and extent of repression have become a thermometer of the evil and amoral quality of the enemy. Regarding the body count of behind the front line killings, contemporary historiography place the numbers at 55 thousand in the Republican rearguard, and as much as 150 thousand in the rebellious or “Nationalist” army rearguard —including an estimated 20 thousand executions

after the war—, apart from those who died in prisons and concentration camps during and after the conflict or the grossly unreported violence against women and children (Juliá, coord. 1999; Preston 2012). As prestigious historians have argued, the fact that very serious crimes were committed by both sides, apart from the noted differences in scale, does not imply that they were morally symmetrical either. In Rodrigo's book *Hasta la raíz*, the author gives five reasons why, from a historiographical standpoint, there is a fundamental difference between the repressive actions carried out behind the front lines by the rebel army and associated paramilitary groups and the Republicans (2008). First, as noted, there is a strictly quantitative difference, related to the total figures. Moreover, the violence committed by the Francoist side responded to a well-designed *terror investment* based on a *blood pedagogy* and was proportionally greater in relation to the area controlled by the loyalist side (see also Preston 2012). The repression on civilians implemented by rebellious troops and paramilitaries was more intense, too, in those areas that changed hands during the first few months of the war. A further difference has to do with the dates on which the initial stage of indiscriminate *hot terror* lacking any legal guarantees gave way to one of *legal terror*, no less bloody, where many executions on the rebellious side were the result of kangaroo military trials (see also Casanova 1999). Finally, as the war wore on, the Nationalist rearguard grew remarkably larger than the Republican one, expanding the opportunities for crimes and abuses in the former while shrinking them in the latter.

In this context of dramatic death toll, contemporary exhumations in Spain are only the latest episode in successive regimes of disinterment and reburial of Civil War corpses in the country, responding to different *necropolitical* stages. Postwar exhumations started right away, as part of the reconstruction of the country and the organization of the new dictatorial state under Franco's rule. This happened within a pervasive official narrative of military victory anchored in religious crusades, heroism and martyrdom –known in Spanish political history as *nationalcatholicism* (Aguilar 2002; Box 2010). Later, starting in the late fifties, more than 30,000 Civil War bodies were dug up and transferred to the Valley of the Fallen, a huge memorial planned by Franco to commemorate his victory for eternity, which eventually became his burial place and is still today the main monumental stronghold of Francoism. As for mass graves containing corpses of Republican militants or sympathizers, some were opened in clandestine fashion by relatives during the dictatorship, and after Franco's death other exhumations took place with scarcely any institutional or technical support (Ferrándiz 2009 and 2011b). But it was sociologist and journalist Emilio Silva who, in October 2000, started the latest chapter in the intricate Civil War necropolitics in Spain when organizing the exhumation of a Republican mass grave in Priaranza del Bierzo (León) containing thirteen corpses, including that of his grandfather. This exhumation was the first to be conducted with the participation of technical experts (Silva and Macías 2003). Since then, the social, symbolic, judicial and political implications of this public exposure of executed bodies have proven to be greater and further-reaching than anyone could have imagined.²

Yet, in terms of transitional justice, as opposed to comparable processes in other parts of the world where reparation policies are more attuned to the prevailing contemporary logic of transnational human rights discourses and procedures such as institutional management, truth commissions, judicial

gathering of evidence and even trials to perpetrators (Hayner 2002; Robben 2005; Wagner 2008; Hinton 2011), the Spanish XXIst century *exhumation model* stands out as a special case. This is partially explained by the amount of time that has passed since the killings—which national law accords specific legal prescriptions akin to statutes of limitations— and the close defense of the “transition” of the early democratic years as an avowedly exemplary reconciliation mechanism by the two mainstream political parties and prestigious intellectuals (Edles 1998; Juliá 2003; Ferrándiz 2008). This is expressed in the absence of judicial competency—as proved in the well-known case of Judge Baltasar Garzón, who was indicted for “attempting to pervert the course of justice” while trying to investigate the crimes of Francoism—as well as in the insufficient, unequal and volatile institutional support despite Parliamentary approval of a “Law of Historical Memory” in 2007, proposed by the former Socialist Government (Ferrándiz 2010). What happened in Poyales del Hoyo in the summer of 2011 is the result of this institutional and judicial orphanhood. It is also a predictable outcome of what I call the *outsourcing of human rights practices* related to the memory of the defeated in the Civil War in contemporary Spain.

Three women in a roadside ditch

The ten bodies involved in the Poyales cemetery dispute came to the fore after two separate exhumations that took place in the neighboring village of Candeleda:³ the first one in 2002 (three women executed on December 30, 1936), and the second in 2010 (six men and one woman executed on October 5, 1936). The ten residents of Poyales had been killed in *hot terror* repressive actions against civilians taken by paramilitary groups linked to the rebel army in its advance towards Madrid in the early stages of the Civil War. I will focus on two main analytical threads, both crucial to understanding the necropolitical status of contemporary exhumations in Spain. First, they reveal two very different stages of the mass grave excavation process in the first decade of the 21st century, covering the periods before and after the development of regional public policies, the establishment of stable scientific protocols, the Law of Historical Memory (2007), and the failed judicial intervention by Judge Baltasar Garzón (2008). Second, both exhumations were surrounded by controversy over the “appropriate” technical and political protocolization of both the excavations and the commemorative and funerary rituals derived from them.

The 2002 Candeleda digging was the tenth in Spain after the opening of the Priaranza grave.⁴ It thus embodies the early stages of the exhumation process in the country. The three women, one of them allegedly pregnant, were dug up by two young archaeologists affiliated with the *Sociedad de Ciencias Aranzadi* and the *Asociación para la Recuperación de la Memoria Histórica* (henceforth referred to as ARHM), the pioneering grassroots “historical memory” association in the country, funded by Emilio Silva and Santiago Macías in 2000.⁵ While looking back on the digging ten years later, Jimi Jiménez, one of the archaeologists, told me that they “did not have a specific procedure beyond what we had learned in our former experience as archaeologists.” From a technical point of view, the systematic use of scientific protocols, the primacy of forensic logic in the excavations and recovery of corpses, and the availability, prestige and demand of DNA identification

techniques—although markedly improved—have been incorporated unevenly throughout the country. The first Candeleda excavation was carried out independently of any human rights protocol, either national (non-existent at that time) or international (such as the Minnesota Protocol for a legal investigation of extra-legal, arbitrary or summary executions, adopted by the UN in 1991).⁶



FIGURE 1: Expectancy by the three women's gravesite in Candeleda, October 19, 2002. Credit: Bruno Coca/Foro por la Memoria de Ávila

After a day of work, at around 10 pm, on October 19th 2002, the skeletons of the three women—Pilar Espinosa, Virtudes de la Puente and Valeriana Granada— were returned to their families on the spot, based on the available circumstantial evidence as well as in the memories and intuition of attending relatives, who agreed among themselves which corpses were their respective family members. Santiago Macías, then Vicepresident of the ARMH and coordinator of the exhumation, explained to me the crucial role of relatives in negotiating the identifications with the archaeologists. Pilar's daughter, Obdulia Camacho, fourteen at the time of the killing, had been arrested together with her mother, and was brought along in the truck, only to be released in the middle of the road a few minutes before the execution. She remembered exactly what her mother was wearing. Relatives of the other women also drew from old memories and recollections of their loved-ones. "There was enough difference between the three women in terms of age and personal belongings that we could more or less identify them," Jimi said. "One of them was old, another young and the third middle age. Relatives also guided us. One of them was a seamstress, and we found bottoms and thimbles. Another one was a religious person, and we found three votive medals close to her neck. The third one did

not have any particular object but she was the youngest.” The combination of age determination, the presence of personal objects and the perceived *familiarity* of the skeletons to relatives present was determinant in attributing identities and reestablishing kinship ties. In an atmosphere of deep emotions, the corpses were passed on from archaeologists to relatives in separate cardboard boxes without any further formality. Judges or governmental officials were nowhere to be found.

Since the beginning of the exhumations, one crucial motivation has been to provide “proper burial” to bodies that, according to relatives and activists, were “buried like dogs” under the conditions set by their murderers (on the *animalization* of human beings and their dead bodies see Biehl 2001; Ferrándiz 2009). By this logic, they were not just killed, but also excluded from their significant *community of death*. The most common destinations for exhumed bodies are municipal burial grounds, although associations have developed different views on how this should be done (i.e. religious or secular funeral, predominance of political displays or personal mourning, etcetera). The necropolitical divergences concerning the fate of exhumed Republican corpses (of victims who had been executed) exploded a few days later when relatives attempted to rebury the three women in the Poyales cemetery. Nobody had planned for that to happen. The mayor, a member of the right-wing *Partido Popular* (PP), a political party generally opposed to this process as useless, vengeful and divisive, initially refused to facilitate the entry of the three executed women into the cemetery, and one of her officials alleged “lack of space.” This hasty assertion effectively summarized over six decades of desertion of the mass graves of the defeated. Finally, amidst controversy, the municipal corporation bent to local and media pressure—Obdulía’s survival story even made it into *The New York Times*—lamented the “misunderstanding” and assigned them a municipal burial place (Tremlett 2006).

The absence of protocols establishing identification procedures and the remains’ *chains of custody* from mass grave to final reburial was due to the longstanding *legal* and *institutional abandonment* of the mass graves of the defeated—to adapt Biehl’s conceptual elaboration of social dispossession to this particular space of death (2001). Those civilians executed by Franco’s forces in the rearguard had remained in a *legal limbo* for decades. Never investigated during Francoism, mass graves cannot be formally considered crime scenes today, as they are prescribed according to both national penal law and the Amnesty Law approved by Parliament in 1977 after Franco’s death. As for *institutional abandonment*, little recognition could be expected during the dictatorship (1939-1975), in part because the Franco regime used the presence of mass graves in its campaign of intimidation and terror, particularly in the countryside. In the first two decades since the arrival of democracy, neither the State nor the Autonomous Communities (under-State administrative regions) had developed public policies regarding the mass graves of the defeated. It was going to take time for institutions to respond, however inconsistently, to the new demands of justice and reparation for the violent acts unveiled in the exhumations.

In the early exhumations such as Candeleda’s, details were worked out on a case by case basis by relatives, associations, land owners or municipal authorities, depending on the circumstances. Macías explained to me how this exhumation gained momentum. “We were overwhelmed. All of it was just

starting and we lacked experience. After the Piedrafita de Babia (León) digging of summer of 2002, there was an issue out in the newspaper *El País*, called “The Land Returns Its Bodies” (*La tierra devuelve a sus muertos*). Due to this mainstream media coverage, ARMH started receiving hundreds of requests to help find missing people across the country. The Poyales-Candeleda case simply moved faster than the others. We received calls from local activists, arrived on the site and started the digging.” Emilio Silva, cofounder together with Macías of the ARMH, similarly considers that the spiral of media attention that these early diggings sparked, including the presence of the BBC in the Candeleda exhumation, helped make their practice “politically correct” in an environment of tremendous personal anxiety, political hostility and social disbelief.

While ARMH was called to assume the technical aspects of the project, the infrastructure and the symbolic work was managed by a local chapter of *Izquierda Unida* (United Left Coalition; henceforth IU), a political coalition linked to the communist party. In fact, the Candeleda digging exemplifies the early stage of a longstanding controversy within the associative movement over the legal, political and symbolic management of the exhumed bodies. The local activists, overtly in favour of the “dignification” of the recovered corpses within political rituals linked the Communist Party’s repertoires of commemoration, clashed with ARMH representatives, who were more inclined to let the relatives of the victims being exhumed do things their own way and thereby preside over their own acts of mourning, including religious rituals if deemed so. During the exhumation a political parade marched from Candeleda to the grave site with a Republican flag—banned during Francoism and now an antimonarchist unofficial symbol—and a local folk music band performing Republican anthems. They were dissuaded by members of ARMH from approaching the grave with the band, and tensions over the adequate political ritualization of the digging lingered throughout the day. Only a few weeks after the exhumation, the other most influential association in Spain alongside ARMH, *Foro por la Memoria* (Forum for Memory; henceforth Foro), was funded, embodying the political culture displayed by the local Candeleda activists. These two connected but highly differentiated political sensibilities have since been embroiled in numerous disagreements, but have also shared moments of, admittedly rarer, strategic unity. Yet the tension between both sensibilities has been crucial in the structuring of the associative field of “historical memory.”

At the time of the first exhumation in Candeleda, some associations openly challenged the opportunity of unearthing and publicly exposing the bones of executed Republicans. This was expressed in what I call the *erasure of genocide* paradigm. It held that exhumations without judicial coverage amounted to the “destruction” of “historical patrimony” and, indirectly, to the washing up of the crimes of Francoism. Instead, they proposed that mass graves should be researched, “dignified” and incorporated into commemorative cycles, while keeping in them the untouched corpses as harsh evidence of the massacres and the historical altruism of the victims for future generations. As expressed in a widely circulated manifesto agreed upon by a number of associations in a meeting in September 28, 2002 by the mass grave of Oviedo (Asturias), the disclosure of bones was a “macabre spectacle,” and would eventually provoke uncertainty and incidents of high tension, and fostered a “TV pathetism” incompatible with the “dignity” owed to the sacrifice of those

executed.⁷ This frontal opposition to disinterment was increasingly wiped away in the following years by the sheer accumulation of diggings and the *body-centered regime of memory, justice and truth searching* established through the overwhelming flow of the exhumed skeletons into the media and into the public sphere. This “corporeal epistemology” flatly resonates with what has become an “axiomatic principle of human right workers and truth commissions throughout the world,” namely, the transnational consolidation of dead bodies as “the site and surface of essential but otherwise obscured social truths” (Klinenberg 2001; see also Stover and Joyce 1991).

Exhumations started to accelerate, increasingly taking central stage both in the social movement and in the public debate over the Civil War and Francoism. In August 2002 ARMH launched a pioneering gambit in the arena of international penal law by presenting sixty-four cases of “forced disappearances” to the UN Working Group on Enforced or Involuntary Disappearances. In 2003, the WGEID included Spain among the countries with open cases of forced disappearances, two of them related to the years 1947 and 1949 denounced by ARMH (Silva and Macías 2003; Ferrándiz 2010a). According to the Report, “cases of similar characteristics that allegedly occurred in Spain before the creation of United Nations were not admitted.”⁸ If sluggishly, the Spanish abandoned mass graves and the awareness of the thousands of civilians missing started to *upload* into the global human rights arena. Its media profile was also on the rise. In late October ARMH held a meeting in Madrid with more than twenty foreign reporters from newspapers such as *Le Monde*, *The Guardian*, *The New York Times* and *The Economist*.

As the interest on exhumations and disinterred corpses grew in the media and fostered an emergent political culture around their memory and dignification, the *only women* forgotten grave in Candeleda became an iconic example within the associative movement of the barbarism and atrocities attributed to Francoist repression. Advocates associated this execution with another emblematic case, the *thirteen roses*, a group of young women enrolled in a left wing youth party—*Juventudes Socialistas Unificadas*—who were executed in Madrid on August 5, 1939 after the end of the war. Santiago Macías selected the case for the well-known book *Franco’s mass graves* he co-authored with Emilio Silva (2003). On April 14, 2006, the local association working in Candeleda and Poyales erected a monolith by the graveside representing a shooting wall hit with numerous bullet holes, dedicated to the “Republican women, their dignity and sacrifice.” Once unleashed from the grave, the story of these three women also provided explosive raw material for the emerging artistic elaboration of the diggings in the country (for a genealogy of the cultural expressions of Republican victimization, see Labanyi 2007).

Juan Copete, a playwright from Extremadura, told me how he read about the opening of the grave in a local newspaper. Out of his shock and outrage, he wrote *Soliloquio de grillos—A Cricket’s Soliloquy* (2003)—which premiered in Mérida in 2004, toured Spain and eventually travelled to Madrid, Lisbon and Paris. For Copete, the three characters in the play were entirely “fictional,” and all they had in common with the exhumed women was the fact that they had being unduly arrested and killed, inappropriately buried and forgotten for decades. He created three female “archetypes,” terrorized at being buried, forced to interact in a claustrophobic space of death. “I wanted to give them another life (...) they were buried but not dead, no one can rest in peace until

the bones have been duly recovered,” he said. Conceived of as an homage to poet Federico García Lorca, also executed in 1936 by the rebels, the play’s scenery represented a mass grave, as the three actresses dressed in black mourning attire re-enact trivia and drama on top of a transparent platform showing a slightly illuminated grave bottom set with dispersed skulls and bones. A slide show projected above the actresses’ heads represented the passage of time. Once on the road, the play was also performed in Candeleda on December 9, 2006, barely a kilometre away from the former grave.

In 2009, the play became part of the reparation and dignifying acts in the reburial ceremony of seven men unearthed in the village of Casavieja, 50 kilometres East of Candeleda. It was performed in the afternoon in the crowded local house of culture, after a morning civil act by the grave and in the cemetery followed by a collective meal. Explicit images from the Casavieja exhumation were included in the slide sequence. The amateur performance received a standing ovation. Two of the three actresses performing were relatives of those executed in their village in the same paramilitary cleansing operations that had taken place in Poyales. One of them, Ana Fuentes, felt that “the three women represented all those killed likewise.” For her, embodying one of the executed women in an homage to the memory of her great grandfather was both a “debt” and a show of “gratitude.” The three women, remixed in the theatrical characters created by Copete, had taken an *afterlife* of their own, beyond their concrete biographies and even gender, enabling a *carnal transfer* of the region’s disappeared from the recovered skeletons to the bodies of some of the victim’s relatives (Lancaster 1997).



FIGURE 2: October 2, 2009. Relatives of some of the seven people exhumed in the Casavieja mass grave rehearsing 'Soliloquio de grillos' the day before the reburial in the municipal cemetery. The scenography represents the mass grave where the three women were trapped for decades, and the image projected on the left screen shows

human remains with execution evidences in the Casavieja digging. The person who took this picture is also the great grandson of one of them. Photo by Jesús Blanco.

Technical, political and legal skirmishes

As exhumations proliferated after 2002 without a centralized institutional supervision, or legal engagement, a national meeting was called by forensic doctor Francisco Etxeberria in Madrid on December 27, 2003, to which I was invited.⁹ In his opening remarks, Etxeberria deemed “appalling” the lack of institutional involvement in the exhumations, not only economically, but also “morally.” Initially conceived as a technical meeting of academics and experts to agree on minimal standards to operate on the ground, process and identify the bodies in laboratories, and elaborate technical reports according to international human rights standards, it became a forum for discussion on the different emerging associations, which defended varying legal, political and symbolic approaches to the diggings. The meeting did not yield any concrete results. Rather, the general feeling was of despair over the evident discord as to how to proceed. Etxeberria then made public the key text in the progressive *scientific capture* of the exhumed bodies, first published online and later in a collective book (2004).¹⁰ In the absence of the powerful institutional umbrella provided by the *judicial crime scene* as the prevalent investigative scenario, the wide availability of this protocol and the strong commitment adopted by Etxeberria and his Basque-based team—which has participated in more than 120 exhumations since 2000—, have been crucial in the increasing importance of an archaeological and more specifically forensic regime of truth and aesthetics in the management of exhumations and in the overall construction of historical memory in Spain. Albeit lacking judicial coverage, this *freelance* modality of human rights violations knowledge production is also based on rigorous method, evidentiary logic, new forms of technical and digital imaging, scientific custody, electronic archive building, and on the growing popularity of DNA identification and its associated logics of genetic kinship and statistical certainty (Laqueur 1989 and 2002; Crossland 2011; Wagner 2008; Elkin 2006; González-Ruibal 2007; Ríos et al. 2010; Renshaw 2011; Keenan and Weizman 2012). With uneven training, experience, and stability, other teams also followed this technoscientific path across the country, including those linked to ARMH and Foro.

Henceforth, continued exhumations and the increasing demands by victims’ families led to the development of public memory policies in different regions of the country, mostly in those governed by the Socialist Party (PSOE) and others on the political left (IU), with a special mention to the Catalanian Democratic Memorial. Some of them included the progressive approval of technical protocols for exhumations. Amazingly, the national protocol, based on international methodological guides for the investigation of human rights violations, had to wait until September 26, 2011 to be published in the *Official Bulletin of the State*, after more than 280 exhumations had been performed. None of them, either regional or National, included the judicial competence over the excavations. The scale and details of this intricate process of local, regional and national memory politics in the country is complex indeed and well beyond the scope of this paper. I will briefly mention two crucial moments which have affected the National government and the National judicial system.

First, in his inaugural speech in April 2004, incoming socialist Prime Minister José Luis Rodríguez Zapatero (PSOE) referred to his grandfather Juan Rodríguez Lozano—a captain who remained loyal to the Republic and was tried and shot in 1936—as the main inspiration to his political vocation. This biographical nod to those defeated and killed in the Civil War opened a political window of opportunity for many in the “historical memory” community. As the associative work and the exhumations gained momentum and public visibility, in November 2004 Zapatero appointed his Vice-President Teresa Fernández de la Vega to lead a Governmental Commission devoted to the “study of the situation of the victims of the Civil War and Francoism” and to prepare a legal draft document. In 2006 the Zapatero Government established a line of financing of activities related to such victims. Finally, in late 2007, the government passed the “Law of Historical Memory” in parliament, amidst political controversy and unmitigated rejection from the main associations, which cried foul. The section referring to exhumations (arts. 11-14) established that the Public Administrations were bound to “facilitate to the direct relatives involved” those activities of “research, location and identification of those disappeared violently during the Civil War or the subsequent political repression, whose whereabouts are unknown.” Although the Law established that “the findings will be immediately reported to the competent administrative and judicial authorities,” it actually legalized an *outsourcing human rights model* whereby the state would provide (limited) assistance and funding, while transferring the responsibility of the research, exhumations identifications and the overall management of the executed bodies to the associations and groups of relatives and, ultimately, to the technical teams collaborating with them.

Secondly, during the parliamentary debates over the law, many associations sensed that even in the best of cases the law would come short of their demands for “truth, justice and reparation” and against the “Spanish impunity model,” increasingly expressed in slogans and demonstrations. They strategically turned to the National Court (*Audiencia Nacional*)—which had gained international attention with the indictment of Pinochet in 1998 by one of its most prominent members, Judge Baltasar Garzón—aiming to establish judicial jurisdiction over the crimes committed according to the stipulations of international law and human rights conventions. Garzón responded to the formal reports of relatives and associations by issuing a judicial indictment of Francoism in October 2008, which *translated* aspects of international human rights law and applied them to the Spanish case. This indictment had a major international media impact and provided powerful, if short-lived, legal ballast for the application of non-prescriptive concepts such as *forced disappearances* or *crimes against humanity* to the executed bodies buried in the mass graves. His recourse to international justice was countered by the Spanish judiciary, which propounded two main arguments: first, if the alleged actions were crimes, they were already prescribed according to Spanish Penal Law; in addition, there was an Amnesty Law approved by overwhelming majority in parliament in 1977, which sealed reconciliation and further prevented the possibility of demanding penal responsibilities for the crimes of the past. Garzón was forced to recognize his lack of jurisdiction, in light of these objections, and rescinded the indictment four weeks later, suggesting that the legal competence against such crimes against humanity rested on the territorial courts.

The Human Rights cause had another major –and arguably connected–

setback in Spain following Garzon's failed legal prosecution of the crimes of Francoism. In 2009, PSOE and PP, the two main political parties in the country, jointly pushed the reform of an article in the main law ruling the competences of Spanish Tribunals (art.23.4 LOPJ), in force since 1985, that had transformed Spain into a champion of Universal Jurisdiction and had made the Pinochet case possible. At the time of the reform, eleven cases regarding violations of Human Rights in different parts of the world were being seen in different Spanish courts, including El Salvador, Tibet, Rwanda, Gaza and Guantánamo. With the legal modification, Spanish tribunals were to be only competent in cases where presumed violators of Human Rights were physically in Spain or had a strong links to the country, if some of the victims were Spaniards, or if the case had not been seen earlier in any other country or in an International Tribunal. This reform came as a major blow to the ability of Spanish judicial system to assume cases of Human Right violations worldwide.

On his part, Garzón was denounced by two right wing associations for breach of his legal duty, and faced a mounting case against him that made its way to the Supreme Court. In the meanwhile, he was temporarily suspended from duty when his oral case formally opened in May 2010. On February 27 2012 he was finally absolved in the "Francoism Case," but had already been convicted and suspended in another case.¹¹ In spite of this judicial setback, the transnational legal arguments he provided in his rulings, once *downloaded* by associations, politicians, scholars and the media, took on an intense *social life*, transforming the way in which the repression of civilians during the war and its aftermath was represented in public discourse and, very importantly, casting the exhumed bodies in a new global light (Wilson 2006). By *legal download*, I refer to the different ways and channels for translating international human rights law to national or local contexts within the framework of a multiplicity of legal cultures. I am also referring, more literally, to the new possibilities of access to this legislation and to the organisms and organizations that establish and promote it by means of the new communications and knowledge technologies. These new technologies make it possible to consult and file documents with a single "click" of the mouse, at a very low or zero economic cost, and almost in real time (Ferrándiz 2010a). In all, due to his considerable international profile, Garzón was a major factor in turning the world's attention to events in Spain, bringing global legal processes within inches of the unearthed bones as well as contributing to the launching of the contemporary exhumations into the transnational human rights arena. Yet, after this brief and intense intertwining of national and international justice, the executed bodies in Spanish mass graves returned to their historically *alegal* status.

A second round in Candeleda and Poyales

For a few years, Candeleda and Poyales remained largely aloof from these controversial and otherwise far reaching events. Both municipalities are located in the Autonomous Community of Castilla y León, governed since 1987 by the right-wing political party (PP), which has been reluctant to take active part in the disinterment process, when not outspokenly averse to it.¹² As opposed to other regions, no public policy of memory has been developed here, and associations and relatives depend on local dynamics and case-by-case negotiations. The second exhumation concerning Poyales residents in

Candeleda started in late March 2010. Following a nationwide pattern, the tension between ARMH and Foro in the region was unrelenting, and flared up again. The grave had been researched by the local Foro chapter —*Foro por la Memoria del Valle del Tietar y La Vera*—alongside a group of archaeologists. Julio Serapio, a shepherd who was twelve at the time of the killing, located the grave. He had witnessed how the seven bodies were dragged down the slope a few meters away from the roadside, before being thrown into a hole. It was situated on private land. After the relatives filed a formal petition, an agreement to allow the digging was reached between the association, Candeleda's major and the landowner. He had bought the plot some twenty years ago, but, he conveyed to me, "nobody ever told me" that it came with a Civil War mass grave. He was eager to get rid of it. Yet there were sharp disagreements over how to proceed, which scuttled the operation. Foro's ideology and exhumation guidelines mandate the clear political profiling of all actions related to the recovery of historical memory.¹³ While archaeologists were clearing the grave and found the first bones, some activists extended Republican flags around the burial place. There is no agreement about what happened right after that, or who lit the flame first. Foro claimed that the owner had decided to ban any "political apology" on his land and announced to the mayor that he thus revoked his permission to excavate. The owner told me later that he learnt about the fuss in the media although he had made clear that, while he "of course" supported the right of relatives to unearth their dead, he did not want any "political meetings" on his land. Foro also accused archaeologists of not being able to tell the difference between exhuming Republicans or ancient Carthaginians. The seven archaeologists involved wrote an open letter to Foro accusing some of its members of being more interested in showing off their logo and their flags than in furthering the exhumation itself. As manifestos and counter manifestos circulated on the Web and the conflict hit the news, the digging stalled.

Two months later —the day after Baltasar Garzón was suspended from his office and at the start of his trial before the Supreme Court— ARMH took up the exhumation. Since 2007, the association had consolidated a technical team based on the town of Ponferrada (León), largely dependent on the yearly governmental subsidies offered by the Ministry of the Presidency. The team, one of the most stable in the country alongside Etxeberria's, was contacted by anxious relatives and the Candeleda's major to resolve the lockout. The operation was again coordinated by Macías, as it had happened eight years before in the other Candeleda grave. Since it was founded, ARMH had stuck to a less marked political profile which gives precedence to the will and preferences of relatives over a fixed and non-negotiable politically oriented commemorative agenda. This open-ended position has been considered by Foro and some other associations as a major betrayal to the political nature of the killings and the presumed Republican ideals of those executed, costing ARMH harsh accusations of being "memory neoliberals" —meaning fostering private memories, as opposed to political ones and, allegedly, privileging personal interest over ideals (Ferrándiz 2006).

Lázaro Martín, whose father and grandfather were executed together on that spot when he was eight, had been the driving force behind the exhumation. During the digging, Lázaro, his daughter Julia, his sister and his niece were often on the spot, attentive to the emerging traces of bodies or personal objects,

reconstructing bits and pieces of their family's story and the shooting, and showing to the team and to onlookers old pictures portraying some of those killed and the surviving relatives. "I always heard there were seven buried here, everybody knew in the village," Lázaro said when he first approached the digging. "Later the people who knew most started to die, thirty or forty years after the fact... and we all grew older and increasingly lost our memories... Four of them I surely know who they are. Besides my father and my grandfather, one of them still has a son in Candeleda... he had also two other children who died... and the other one I believe he was single..." In a video interview we recorded later a few meters away from the digging, he elaborated on his reminiscences of the killings and their aftermath: "they kept people in a dungeon, and took them from there... I have known the killers all my life, they were eighteen years old or so at the time, around six or eight of those kids were from the village... now they are all dead... Since my father's murder my mother never walked by the grave when she had to go to Candeleda, she used to take a longer route to prevent it... I walked barefoot for years, with my clothes patched... we were hungry, suffered great hardships, lost everything and had move to my grandfather's house... I started working at ten... We even had to pay 3,000 *pesetas* to the *Tribunal de Responsabilidades Políticas* in Madrid to get our land back... that was a lot of money for us back then..." (on graveside narratives, see Ferrándiz 2008).¹⁴

Macías went with Lázaro to the Poyales Municipal Archives to confirm the identities of all seven people in the grave, three of whom were unknown to the research team. It turned out that the three anonymous dead were members of a single family, a couple of eighty-two and sixty-two and their twenty-four years old son, with no descendants. As confirmed by the Death Certificates, the seven of them died "as a consequence of the war" at the same time in the same place. When the bodies were finally exposed, following a practice that has been increasingly adopted both by Foro and ARMH in an effort to drag authorities into investigating their findings as crimes, Macías urged regional judges and the Civil Guard to investigate the grave site arguing that the skeletons showed signs of violence. René Pacheco, the head archaeologist, was later called by the Judicial Police to its local headquarters to testify on ARMH's motivations and findings. As in most exhumations throughout the country, once the crime prescription is established, no further legal action is taken, and the potential judicial case is dismissed. In the absence of a nationwide protocol for the exhumations, the digging proceeded according to the technical pattern established by ARMH, which treats mass graves as "synchronic primary burials." *In situ*, the remains were separated as "individuals," correlatively numbered, methodically photographed using archaeological techniques of evidence building, systematically "lifted" from the grave and placed in individual boxes, alongside their associated objects (Crossland 2011; Renshaw 2011).



FIGURE 3: Exhumation in Candeleda, May 18, 2010. Photo by Francico Ferrándiz.

Then the bodies were brought to ARMH's home laboratory in Ponferrada, where they continued their process of *scientific inscription* along the lines described before: they were thoroughly cleansed, processed and analyzed according to their lab protocol, which has become more sophisticated over the years under the influence of Etxeberria's pioneering forensic practice and widely circulated exhumation reports. In the absence of any legal backing for the digging, as in most cases in the country, Candeleda's report had only informative and archival value, and expressed the technical efforts to confirm the hypothesis of violent death and achieve concrete identifications. The report analysed the "individuals" one by one. Each of them was diagrammed in a different colour with Micrografx Design software, expressing the position in which they were found in the grave. Individual number 7 was the one with clearest signals of an execution: an exit bullet hole in his skull—right parietal bone. A Mauser rifle cartridge case and the remains of a detonated bullet were also found. Anatomical disposition indicated that at least four of them had their hands tied in the back when executed. The finding of one earring confirmed the presence of a woman. All of this was consistent with the premise of the execution of seven people in the terms already established by oral testimonies and death certificates. This time the team counted with the volunteer help of forensic doctor Branka Franicevik (University of Bradford). Franicevik spread out the remains in anatomical connection in a large forensic desk, photographed any traces of the execution and *perimortem* violence, and produced a detailed "skeletal inventory" for each of the bodies. Due to the fragmentation—completeness ranging from 85% to 40%—and poor preservation conditions of the skeletons, together with the lack of resources to perform DNA tests, no identities to the corpses were ascertained in this case (ARMH 2010).

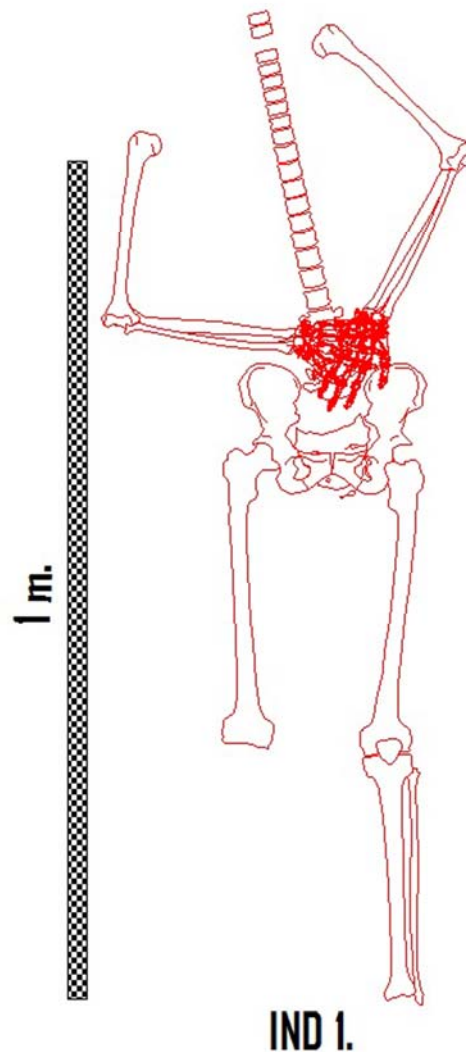


FIGURE 4: “Individual 1:” Candeleda technical report, October 13, 2010. Credit: Asociación para la Recuperación de la Memoria Histórica (ARMH).

After the archaeological and forensic report was completed, the ARMH team, squarely placed at the center of funerary, grief and mourning practices (Crossland 2011), started contacting relatives in order to prepare the return of the bodies to Poyales. On March 19, 2011, they arrived at the village from the laboratory in their station wagon, with the exhumed bodies in seven hard plastic containers. In the last decade, the rituals of returning the corpses to relatives and communities has become one crucial channel for the celebration and public display of the memory of those civilians executed during and after the war. Although the structure of these return rituals tends to be similar throughout the country—public act of remembrance (often including PowerPoint presentations of the scientific analysis), funeral procession through the village’s streets,

reburial (mostly in cemeteries), communal meal—the concrete management of the bodies differs depending on the region or the political affinities of the associations or relatives. The predominant modality of burial has been the *community of death*: as they were murdered together, so they are reburied together. The availability of governmental funds to perform some DNA tests in the period 2007-2012 has prompted an increasing demand for individual identifications and particular burials, although this affects a relatively small number of situations. Yet as the state has eluded coordinating the identifications and creating a centralized database, there is no institutionally established *bureaucracy of postmortem identity* (Wagner 2008) and few technical teams have the know-how to engage in genetic identification procedures (Ríos et al. 2010).

As in most cases throughout Spain, the return home of the corpses after the laboratory work took place with little open tension. A brief public act attended by around fifty people was celebrated in a community centre, where the seven bodies in their containers were exposed for a few minutes. As opposed to other cases (López and Ferrándiz, eds. 2010), there was no formal institutional representation from the town council or any other local or regional authority. Macías celebrated the closure of an “episode which unfortunately happened in thousands and thousands of places in this country... these seven victims are going to unite in the same burial place with the three other Poyales residents we exhumed eight years ago... it is like a whim of destiny... We’ve moved along... last time we were here no one thought that we could celebrate a public act such as this.” He then complained that the institutional and legal engagement with the disappeared in Spain was miles away from other well-known international cases, and that the associations should not be the only executors of human rights practices in the country. “Although we do apply for governmental funding, we have to continue demanding that it is the State that guarantees the search for the disappeared... the identification, the exhumation, and the devolution to their relatives, including the public homage due to them.”

No prominent political symbol was displayed during the act, nor afterwards during the procession to the cemetery though the village streets en route to the burial. The cemetery officers had mistakenly opened a burial plot labeled “mass grave” (*fosa común*) located at the entrance, and at first many thought they would be buried there. I noted the irony and took a few pictures of the gravesite. “It’s not there,” Macías said. There was no religious ceremony during the burial. An applause followed the closing of the tombstone, which had a new plaque attached with the seven names and an inscription reading “murdered in Candeleda on October 5, 1936 for defending the values of justice, freedom and democracy. Their bodies were recovered in May 2010 by ARMH and buried in this place on March 19, 2011.” Some of the relatives offered flowers, lit candles and prayed in whispers. Others just stood still. A charged silence reigned. After the ceremony, right outside the cemetery, there was a brief yet tense incident between Foro and ARMH activists. The crowd slowly withered away. Dogs barked in the distance. The smell of freshly cooked food took over the village



FIGURE 5: Lázaro and his family in the burial of the seven exhumed corpses in the Poyales del Hoyo cemetery, March 19, 2011. Photo by Francisco Ferrándiz.

Necropolitical loops: From mass grave to tomb to mass grave

We now return to the opening vignette. On July 30, the grave was opened and the corpses, except for that of Virtudes de la Puente, were moved five meters to the north to the municipal “mass grave” situated at the entrance of the cemetery. This move, endorsed by Poyales’ mayor, caused one of the most serious incidents since the exhumations started in 2000, amplified by public scandal and exceptional media coverage. Moving bodies of exhumed Republicans executed in the Francoist rearguard during the Civil War, even within a single cemetery, proved to be explosive just the same. One crucial factor feeding the tension was that the PP-affiliated mayor did not sufficiently consider how his acts as a public officer would be understood within the context of political positions taken by his party over the last decade, deemed as shameful and complicit with Francoism by the mainstream associations. The episode exemplifies, first, the uneasiness with which the different political sensibilities in Spain are experiencing this process—whether openly or implicitly. Secondly, it shows the frictions that often occur in exhumations stemming from differences among family agendas, local and national politics, disagreements amongst associations, and the media reconstruction of events.

As there had been too much noise since the unfortunate *body transfer*, formal records were scarce, versions of the events grossly differed, and misinformation, reciprocal insults and half-truths carried the day, when the incident calmed down I travelled with my sister back to Poyales to talk to Lázaro Martín. He and his family, personally affected by the cemetery affair, stayed out of the public view during the confrontation in the village and had remained silent to the press and elusive with the associations ever since. “I was the one who

decided to bury the seven exhumed bodies with the other three women, and the former mayor was 'ok' with that," he said. Yet after the burial, the granddaughter of Virtudes de la Puente protested to Lázaro and Town Hall officials as she considered the burial plot to be her property, although it had been temporarily lent to her and relatives of the other two women by the municipality. After some negotiations in the village, relatives and officials informally agreed that the seven bodies from the second exhumation were to be moved to the mass grave by the cemetery entrance. But once in the cemetery, some eleventh hour choices muddled the situation considerably. It was then when the disinterment and reburial, sprung from its local logic and meanings, began to problematically ingrain with broader debates and controversies regarding the fate of exhumed bodies in Spain today. The legal and political abandonment of the exhumed corpses had placed them in a most vulnerable situation in their home cemetery, quite unlike the status of the rest of the bodies buried there. The mayor claimed that he was surprised by the poor condition of the burial place, which was partially flooded. It was then decided that all bodies except for Virtudes' alleged body, who was reburied that same day with her son and wife, should be moved to the cemetery's "mass grave," a more "distinguished" and "preferential" location according to the mayor. Members of the local historical memory association, who were on the spot documenting the relocation process, swiftly accused the mayor of profaning the tomb and undermining an already "dignified burial." Then the demonstration against the mayor was called.

"Yet if there is a criminal here, it's me!" Lázaro claimed. During the conversation he showed us his diary, where he had entries related to the exhumation and the *plaza* incidents. On August 5, he had noted "radio, television, press, all of it pure lies." On August 8, a day after the demonstration, he wrote: "Went to the Town Hall to see what was going on regarding the scandal, because it was all lies and the only one who knows it all is me. All is fine. Afternoon, reading and rest. Good warm day, 35 degrees." However, since 2000 exhumations have been playing out simultaneously on different fronts, as shown in the way in which a local dispute regarding the placement of the bodies in a cemetery entered into the national media spotlight, inflaming Spain's *nervous system* (Taussig 1992). What was at stake in the Poyales cemetery was not just a local squabble, but the crucial, unresolved and highly contentious national debate on how to handle the Civil War mass graves and the corpses of executed civilians still dispersed throughout the country.

On December 3, 2011, when the Supreme Court was about to begin its open hearings in the Garzón trial, I was invited to a rare joint strategy meeting by ARMH and Foro celebrated in the crowded basement of one bar in the district of Hortaleza in Madrid, an usual *tapas* and *cañas* meeting place for ARMH activists. While most of the debate revolved around the design of common tactics to respond to Garzón's trial, the Poyales case popped up early in the discussions, as it had seriously confronted the two main associations and, ultimately, had been painful and frustrating to all. During my fieldwork I had twice witnessed the local Foro leader accusing ARMH activists, loudly and publicly, of being "mass grave thieves:" during the 2010 exhumation, and right after the burial. One of the activists in the meeting who had been present at the incidents in the village's main plaza had filed a report denouncing aggressions, and asked both associations for legal backing. Some argued that the case was a flagrant violation of any minimal ethical code and that, given the PP's recent

electoral victory which landed it an absolute majority in parliament, it could become a turning point in the memory politics of contemporary Spain, reversing the work of a decade. For them, Poyales should become a *casus belli* for the historical memory social movement. The meeting witnessed some stormy moments. But finally both the leadership in ARMH and Foro accepted some responsibility for mismanagement, agreed on the tenuous legal case against the mayor, and decided to let the story go and improve procedures for the future, especially in relation to coordination between associations, among associations and relatives, and with regard to the legal consolidation of burial places in the cemeteries for those exhumed. Yet, after a decade of disagreements and confrontations, the truce was precarious and only lasted for a few weeks.

Contemporary debates on transitional justice warn of the difficulties to achieve accountability even if Truth Commissions are set or “final point” and “due obedience” laws give way to criminal courts (Aguilar 2010). Authors even question the institutional, judicial and symbolic logic of such mechanisms and the effectiveness of “one-size-fits-all,” technocratic and decontextualized solutions” (Nagy 2008); they also caution against the potential for “frictions” and increased suffering derived from certain reparation formulae (Hinton 2011), and underline the importance of paying more attention to native micropolitics of reconciliation (Theidon 2006; 2012). Yet, with all due reservations, in an era of rising prestige for the compensation apparatuses evolved to address crimes against humanity, the Spanish case stands out as a rather peculiar case, formally disconnected from these transnational advances but also clearly influenced by civil society’s growing awareness of them. Taking place in a country once famous for being a transnational champion of human rights struggles against impunity, which eschews its own responsibilities at home. When looking at the exhumation process in Spain, the result of a decade of social, political and judicial controversies is a *truth seeking and reparation subcontracting system* where national institutions, far from taking direct responsibility and designing an institutionally coherent—if surely problematic—architecture of repair and reconciliation, chose to play a “facilitating role,” largely relying on the self-management of reparative initiatives by associations and civil society. In such a *bottom up reparation model*, crucial tasks such as the localization of graves, archival research, testimony taking, exhumations, psychological care, laboratory work, identifications, forensic reporting and reburials all rest in the hands of associations, relatives and some freelance technical teams. Simultaneously, the principal attempt to connect the human rights violations perpetrated against the civilian population during the war and Francoism with international penal law—as Garzón has endeavored to do—has been derailed by both the judicial system and the state. Despite the 2007 Law of Historical Memory, the executed corpses in the mass graves still inhabit a judicial limbo as prescribed crimes. The 1977 Amnesty Law prevents search for any penal responsibility. Until a national exhumations protocol was officially published by the socialist government as late as October 2011, there had not even been clear provisions for the management, identification or protection of the corpses once exhumed in many parts of the country (Etxeberria 2012). Incidents such as the ones in Candeleda and Poyales, while exceptional in their public exposure, are indicative of the crucial flaws in the contemporary management of Spain’s traumatic past deriving from institutional and judicial negligence and human rights outsourcing policies. The precariousness in the

transit to cemeteries of the executed Republican civilians abandoned in mass graves for decades also raises reasonable doubts about the long term ability of Spain's prestigious transition and its institutional deployment in the sustained improvement of the country's democratic quality.

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¹ On May 28th 2011, the Ministry of the Presidency appointed me to the "Commission of Experts for the Future of the Valley of the Fallen," tasked with issuing a report with recommendations on the democratic transformation of the monument. The 31-page report was made public on November 29, 2011, recommending the exhumation of Franco's body out of the monument.

² On the subject of contemporary exhumations considered from an interdisciplinary and comparative perspective, see Jerez-Farrán and Amago, eds. (2010), and the special issue on "The Politics of Memory in Contemporary Spain" of *the Journal of Spanish Cultural Studies* (2008), edited by Jo Labanyi.

³ For historical reasons beyond the scope of this paper, Poyales del Hoyo has scant municipally owned lands. This is the reason why both mass graves—although related to two separate killings of Poyales' residents—were located in the municipal lands of nearby Candeleda.

⁴ *Sociedad de Ciencias Aranzadi*, a Basque scientific institution which has carried out a good deal of the diggings since 2000, provides the most reliable list of exhumations available in Spain. See http://politicadela memoria.org/images/stories/documentos/LISTADO_EXHUMACIONES_diciembre_11.pdf.

⁵ For details on the execution, according to oral sources, and of the local impact and management of the exhumation, see Silva and Macias 2003:219-224, and Tremlett 2006:19-43. An excerpt of Tremlett's chapter on the first Candeleda exhumation was published in *The New York Times* on April 11, 2007.

⁶ U.N. Doc. E/ST/CSDHA/12 (1991). See <http://www.theadvocatesforhumanrights.org/4jun20046.html>.

⁷ See, Manifesto for *the Asociación Fosa Común de Oviedo, Asociación Archivo Guerra y Exilio* (AGE) and other smaller associations in the region of Asturias at <http://humano.ya.com/fosaoviedo/reunion/reunion.htm> and <http://www.fosacomun.com/comunicado.htm>.

⁸ See, Report of the Working Group on Enforced or Involuntary Disappearances E/CN.4/2003/70, available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G03/113/18/PDF/G0311318.pdf?OpenElement> (p. 45).

⁹ In 2000, only one mass grave was opened: the famous Priaranza del Bierzo exhumation. In 2001, there were 2 exhumations (7 bodies disinterred in total). In 2002, the number rose to 11 (40 bodies), including the first one in Candaleda. In 2003, there were already 35 (256 bodies). As of February 2012, the number of mass graves exhumed is 278, totalling 5,000 bodies (Etxeberria 2012).

¹⁰ For the online version, see http://www.sc.ehu.es/scrwwsr/Medicina-Legal/_private/AF-Granada-01.htm.

¹¹ Baltasar Garzón had to stand three consecutive simultaneous trials in the Supreme Court, which led to rumours that Garzón was the victim of an *ad hominem* partisan campaign. In the first case, related to a corruption probe he launched as investigative judge, he was convicted and suspended from his office for eleven years for abuse of power—e.g. tapping the lawyer’s phones—in his judicial investigation of a major corruption case involving PP. A sentence which, given his age, may effectively end his judicial career in Spain. The ruling in the case of the Civil War and Francoism brought mixed consequences. Although it declared Garzón innocent, the ruling established that he “erred” by applying the category of ‘crimes against humanity’ to torture and summary executions committed during the Civil War and its aftermath. On March 29, 2011, the Supreme Court ruled that jurisdiction over mass graves belonged to the local courts. Although the Supreme Court ruling reaffirms that the crimes are prescribed, it established the competence of local judges in “dating” the graves and “identifying those affected if necessary.” The ruling also acknowledges that “the bodies of those who suffered violent deaths cannot remain in anonymity, neither outside proper burial places.” For that reason, families have recourse to mechanisms already provided by the Law of Historical Memory. Ultimately, the ruling closes any possibility of criminal prosecution.

¹² For an overview of the PP’s position on the ‘recovery of historical memory’ and the exhumations, see Fernández Díaz 2008. Jorge Fernández Díaz was one of the PP’s speakers in the parliamentary debates concerning the Law of Historical Memory, which he defined as “disgraceful” and “irresponsible.”

¹³ These guidelines can be downloaded at Foro’s Webpage: <http://www.foroporlamemoria.info/>.

¹⁴ These Political Responsibility Courts, an important part of Franco’s architecture of repression of the defeated, emanated from a Law decreed in February 1939 where the Republicans were accused of having provoked the War and of military rebellion. All fighters, sympathizers of even those suspects of “serious passivity” should restore the moral and material damages caused by their political choice. The Law contemplated three main sanctions (retroactive):

professional disqualification, restrictions to freedom of residence, and economic fines, including the confiscation of property. In cases where the accused was dead or had been executed, as it was Lázaro's case, it was the family who had to face the payment. The Tribunal collapsed in 1945 due to the sheer accumulation of reports, which already affected 9,5% of the population (Álvaro Dueñas 2006; Preston 2012).